

TITLE 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions

PROPOSED AMENDMENT

12 CSR 10-110.900 Farm Machinery and Equipment Related Exemptions

PURPOSE: This amendment incorporates the amendments to section 144.030.2(22), RSMo, from TAFP HCS SCS SB 355 (2005), and the addition of section 144.063, RSMo, from TAFP CCS HCS SS SCS SB 931 (2008).

*PURPOSE: Sections 144.030.2(22), 144.045.1, [and] 144.047 and 144.063, RSMo, exempt certain farm machinery, equipment, repair parts, **supplies** [and] lubricants, and **fuels** from taxation. This rule explains which items qualify for these exemptions.*

(1) In general, the purchase of **(A)** farm machinery, equipment, **and** repair **and replacement** parts; [and] **(B)** supplies **and lubricants** used exclusively, **solely**, and directly for producing crops, raising and feeding livestock, fish or poultry or producing milk for ultimate sale at retail; **and (C) motor fuel used for agricultural purposes** is exempt from tax.

(2) Definition of Terms.

(A) Equipment – Devices that have a degree of permanence to the business, contribute to multiple processing cycles over time, and generally constitute fixed assets, other than land and buildings, that are capitalized and depreciated for purposes of business and accounting practices.

(B) Farm machinery, equipment and parts—Machinery, equipment and parts used directly and exclusively in the agricultural production process.

(C) Machinery – Combinations of parts that work together as a functioning unit, even if they are subordinate elements of more complex machinery. Machinery may be simple or complex, but does not include the replacement of an individual part, even if that part becomes an element of a functioning machine.

(D) Motor fuel – Gasoline, diesel fuel, kerosene and blended fuel, as defined in 142.800, RSMo.

[B] (E) Repair and replacement parts—[Items] Articles of tangible personal property that are components of [exempt farm] machinery and equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Included in the repair and replacement part category are batteries, tires, fan belts, mufflers, spark plugs, oil filters, plow points, standard type motors and cutting parts. Substances such as coolants that are added to machinery and equipment for operation are not parts. Substances such as paints or adhesives that adhere to the surface of machinery and equipment, but are not distinct articles of tangible personal property, are not parts.

(F) For the purposes of this rule, supplies shall mean – Tangible personal property consumed in producing crops or milk, or raising and feeding livestock, fish, poultry, pheasants, chukar, or quail, for ultimate sale at retail.

(3) Basic Application of Exemption.

(A) To qualify for exemption pursuant to section 144.030.2(22), RSMo, items purchased must be—

1. Used exclusively for agricultural purposes;
2. Used on land owned or leased for the purpose of producing farm products;
and

3. Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail. The term “used directly” encompasses items that are used in some manner prior to the actual commencement of production, during production, or in some manner after the production has terminated. In determining whether items are used directly, consideration must be given to the following factors:

- A. Where the items in question are used;
- B. When the items in question are used; and
- C. How the items in question are used to produce a farm product; and

[4. Farm machinery or equipment that meet these requirements are exempt from tax, as are repair or replacement parts there on and lubricants used exclusively for such farm machinery or equipment and one half (1/2) of any diesel fuel used in such machinery or equipment]

(B) Pursuant to section 144.045.1, RSMo, farm machinery or equipment that would otherwise qualify as exempt farm machinery and equipment will not lose its exempt status merely because the machinery or equipment is attached to a vehicle or real property. Such equipment includes, but is not limited to, a grinder mixer mounted on a vehicle or special livestock flooring. When exempt farm machinery or equipment attached to a motor vehicle is sold with the motor vehicle, the part of the total sales price attributable to the farm machinery or equipment is exempt from tax if the farm machinery or equipment is separately invoiced. **If not separately invoiced, the total sales price is subject to tax as a motor vehicle.**

(C) Pursuant to section 144.047, RSMo, farm machinery includes aircraft used solely for aerial application of agricultural chemicals.

(D) Pursuant to section 144.030.2(34), RSMo, all sales of grain bins for storage of grain for resale are exempt; *[however]* **pursuant to this section**, parts purchased separately for these bins are not exempt. **However, grain bins, [and] including** all parts, *[purchased]* that **are used in production of a farm product and** qualify as farm machinery and equipment are exempt **pursuant to section 144.030.2(22).**

(E) Pursuant to section 144.063, RSMo, fencing and motor fuel used for agricultural purposes are exempt.

[E](F) The fact that particular items may be considered to be essential or necessary will not automatically entitle them to exemption. The following categories of items are excluded from the meaning of farm machinery and farm equipment, **[and] including supplies, and** are subject to tax:

1. *[Under no circumstances can a]* A motor vehicle **and parts for a motor vehicle do not qualify as exempt farm machinery or equipment.** *[or]* A trailer **and parts for a trailer** *[ever be treated]* **generally** *[will]* **do not qualify** as tax exempt farm machinery or equipment. The terms motor vehicle and trailer are defined by *[the titling and licensing laws of Missouri]* Chapter 301, **RSMo**;

2. Containers and storage devices such as oil and gas storage tanks, pails, buckets and cans;

3. Hand tools and hand-operated *[equipment]* **items** such as wheelbarrows, hoes, rakes, pitchforks, shovels, brooms, wrenches, pliers and grease guns;

[4. Consumable items such as antifreeze, Freon, ether, and starter fluid;]

[5.] **4.** Attachments and accessories not essential to the operation of the machinery itself (except when sold as part of the assembled unit) such as cigarette lighters, radios, canopies, air-conditioning units, cabs, deluxe seats, tool or utility boxes and lubricators;

[6.] **5.** Equipment used in farm management such as communications and office equipment, repair, service, security or fire protection equipment;

[7.] **6.** *[Drainage tile, fencing material, b]* **Building materials, and** general heating, lighting and ventilation equipment *[for nonproduction areas];* and

[8.] **7.** Machinery and equipment used for a dual purpose, one purpose being agricultural and the other being nonagricultural are not exempt.

[F](G) Schedule A is a list of items of farm machinery, **equipment and supplies** *[and equipment which]* **that** will usually be exempt if used exclusively for agricultural purposes on land owned or leased for the purpose of producing farm products and used directly in producing farm products or livestock to be sold ultimately at retail.

Schedule A Usually Exempt Items

Anti-freeze

Artificial insemination equipment

Augers

Bale loader

Bale transportation equipment

Baler twine

Baler wire

Balers

Batteries for farm machinery and equipment

Bedding used in production of livestock or poultry for food or fiber

Binder twine

Binders

Brooders

Bulk feed storage tanks

Bulk milk coolers

Bulk milk tanks

Bulldozers used exclusively in agricultural production

Calcium for tires

Calf weaners and feeders
Cattle currying and oiling machine
Cattle feeder, portable
Chain saws for commercial use in harvesting timber, lumber and in orchard pruning
Chicken pluckers
Choppers

Cleansing agents and disinfectants for agricultural purposes

Combines
Conveyors, portable
Corn pickers
Crawlers, tractor
Crushers
Cultipackers
Cultivators
Curtains and curtain controls for livestock and poultry confinement areas
Debeakers for productive animals
Dehorner for productive animals
Discs
Drags
Dryers
Dusters

Ear tags

Egg handling equipment
Ensilage cutters

Ether

Fans, livestock and poultry
Farm tractors
Farm wagons
Farrowing houses, portable
Farrowing crates
Feed carts
Feed grinders/mixers
Feed storage bins
Feeders

Fencing Materials

Fence Posts

Fertilizer distributors

Field drain tile

Flooring slats

Foggers

Forage boxes

Forage harvester

Freon

Fruit graters

Fruit harvesters

Fuel additives**Gates**

Generators

Gestation crates

GPS-Global Positioning System equipment

Grain augers

Grain bins for storage of grain for resale (but not separately billed parts or add-ons to these grain bins)

Grain binders

Grain conveyors

Grain drills

Grain elevators, portable

Grain handling equipment

Grain planters

Greases and oils

Harrows (including spring-tooth harrow)

Hay loaders

Head gates

Heaters, livestock and poultry

Hog feeders, portable

Hog rings

Hoists, farm

Husking machines

Hydraulic fluid

Hydro-coolers

Incubators

Irrigation equipment

Light bulbs

Livestock feeding, watering and handling equipment

Lubricating oils and grease

Manure handling equipment (including front and rear-end loaders and blades)

Manure spreaders

Marking chalk

Milk cans

Milk coolers

Milk strainers

Milking equipment (including bulk milk refrigerators, coolers and tanks)

Milking machine

Motor Fuel (gasoline, diesel fuel, kerosene and blended fuel)

Mowers, hay and rotary blade used exclusively for agricultural purposes

Off-road utility vehicles, other than all-terrain vehicles (provided the vehicle qualifies as farm machinery or equipment)

Panels, livestock

Pickers

Planters

Plows

Posthole diggers

Poultry feeder, portable
Pruning and picking equipment
Repair and replacement parts for exempt machinery
Rollers
Root vegetable harvesters
Rotary hoes
Scales (not truck scales)
Seed cleaners
Seed planters
Seeders
Shellers
Silo unloaders

Snow Fence

Sorters
Sowers
Sprayers
Spreaders
Sprinkler systems, livestock and poultry
Squeeze chutes

Starting fluids

Subsoiler

Tarps to protect agriculture products

Threshing machines
Tillers
Tires for exempt machinery
Tractors, farm
Vacuum coolers
Vegetable graders
Vegetable washers
Vegetable waxers
Wagons, farm
Washers, fruit, vegetable and egg
Waxers
Weeders

Wire fencing

(G) Schedule B is a list of items which are usually taxable.

**Schedule B
Usually Taxable Items**

Acetylene torches
Air compressors
Air tanks

All-terrain vehicles *[3-, 4- and 6-wheel]* (unlike an off-road utility vehicle that does not meet the definition of a motor vehicle, an all-terrain vehicle is a motor vehicle because it has a seat that is straddled and handlebars for steering)

[Antifreeze]

Automobiles

Axes

Barn ventilators

Brooms

Brushes

Building materials and supplies

Bulldozers

Cement

Chain saws

[Cleansing agents and materials]

Construction tools

[Ear tags]

Electrical wiring

Equipment and supplies for home or personal use

[Ether]

Fence building tools

Fence posts

Field toilets

Fire prevention equipment

[Freon]

[Fuel additives]

Garden hose

Garden rakes and hoes

Gasoline tanks and pumps

Golf carts

Hammers

Hand tools

Hog ringers

[Hog rings]

Lamps

Lanterns

Lawnmowers

[Light bulbs]

[Marking chalk]

Nails

Office supplies and equipment

Packing room supplies

Paint and decals

Personal property installed in or used in housing for farm workers

[Posthole diggers (except commercial use in tree farms)]

Pumps for household or lawn use

Pumps, gasoline

Refrigerators for home use
Repair tools
Road maintenance equipment
Road scrapers
Roofing
Sanders
Shovels
Silos
Small tools
Snow fence
Snowplows and snow equipment
Staples
[Starting fluids]
Supplies for home or personal use
Tanks, air
Tanks, gasoline
Tools for repair construction
Tractors, garden
Truck beds
Water hose
Welding equipment
[Wire, fencing]
Wrenches

(4) Examples. **For purposes of these examples, a farmer is someone who uses or cultivates land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products.**

(A) An implement dealer sells a soilmover to a farmer. The soilmover is going to be used on low-lying agricultural land exclusively for the purpose of controlling drainage. The sale of the soilmover is exempt.

(B) A farmer purchases a combine. The farmer later purchases an AM/FM radio to be installed on the combine. The farmer's purchase of the combine is exempt; however, the farmer's purchase of the AM/FM radio is taxable. If the radio had been a part of the assembled unit, the total price for the combine would have been exempt.

(C) A farmer purchases a lawnmower. The farmer uses the lawnmower to mow *[around grain bins]* **in an orchard**, as well as **to** mow his lawn. The purchase of the lawnmower is subject to tax, *[since]* **because** the lawnmower is not used exclusively and directly for agricultural production.

(D) A farmer purchases a water chiller for use to control the climate inside the hatchers and setters. The water chiller is also used to cool the administrative areas in the hatchery. The purchase of the water chiller is subject to tax, *[since]* **because** it is not used exclusively for agricultural production.

(E) A farmer takes his tractor to the implement dealer for routine maintenance, which includes changing the oil, filters and antifreeze. The sale of the oil, *[and]* filters **and antifreeze are** *[would be]* exempt. *[however, the antifreeze would be subject to tax.]*

(F) A farmer buys a bale spike to be installed on his pickup truck. The bale spike is not subject to tax.

(G) A farm supply store sells commercial rabbitry equipment, such as feeders, nest boxes and wire hanging cages used for rabbit cages and feeders, to a farmer who raises rabbits in confinement for human consumption. These items are not subject to tax.

AUTHORITY: sections 144.270 and 144.705, RSMo, 1994. Original rule filed Nov. 18, 1999, effective June 30, 2000. Amended filed:

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing scheduled.

***Charles A. Johnson, Jr. v. Director of Revenue** (AHC 1986). A seed cleaner was purchased under a claim of exception to process soybeans. The Commission ruled that although the taxpayer bought the seed cleaner to process his own soybeans, he used the equipment to process other farmers' seed as well. Processing the seed of others failed to meet the requirement that the equipment be used directly and exclusively for the production of farm products.*

***Crystal Lake Fisheries v. Director of Revenue** (AHC 1989). A nearby creek could flood raceways used to raise rainbow trout. A dike prevents the creek from flooding the raceways. A bulldozer was purchased, which was used to repair and maintain the dike. The bulldozer is also used to prevent flooding of pasture, hay, and land containing hardwood and softwood trees, all of which are harvested as required. The court found that the bulldozer in question met the three requirements of the exemption statute. The bulldozer was used exclusively for agricultural purposes, on land owned or leased for the purpose of farming, and directly in producing farm products.*

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

| | |
|------------------------------|------------------------------------------------------------------------------|
| Rule Number and Name: | 12 CSR 10-110.900 Farm Machinery and Equipment and Related Exemptions |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimate Cost of Compliance in the Aggregate. |
|-------------------------------------------------|------------------------------------------------------|
| Missouri Department of Revenue | \$0.00 |

III. ASSUMPTIONS

The rule does not change existing practice for the Department of Revenue.

**FISCAL NOTE
PRIVATE COST**

IV. RULE NUMBER

| | |
|------------------------------|------------------------------------------------------------------------------|
| Rule Number and Name: | 12 CSR 10-110.900 Farm Machinery and Equipment and Related Exemptions |
| Type of Rulemaking: | Proposed Amendment |

V. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|--------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| 201 | Vendors | \$0.00 |

VI. ASSUMPTIONS

The rule does not change existing practice for vendors.

Small Business Impact Statement

Proposed Rule 12 CSR 10-110.900 Filing Requirement

1. Rule impacts all small businesses making sales of tangible personal property. The rule does not impose any new requirements on small businesses and is a consolidation of already published rules.
2. Any retail establishment making sales of tangible personal property under this rule will be required to prepare and file a sales tax return for each reporting period.
3. The retail establishment will be required to collect the appropriate amount of tax on its sale of tangible personal property, maintain records of those transactions, report sales on an annual, quarter or monthly basis and remit the tax at the time of reporting.
4. There are not monetary costs above and beyond printing and distributing returns and processing those returns as filed by businesses as documented in the public cost fiscal note. There are no monetary benefits to the Department of Revenue from this rule. There are no monetary costs or benefits to other state agencies from this rule.
5. Because the effort to file returns is minimal, no additional efforts have been made to reduce such costs to small businesses.
6. The rule has been distributed on a list serve that is accessible to small business advocates. Also, the rule does not impose any new requirements on small businesses and is consolidation of already published rules.
7. Not applicable.

**12 CSR 10-110.900 FARM MACHINERY AND EQUIPMENT RELATED
EXEMPTIONS**

PROPOSED AMENDMENT SUMMARY QUESTIONS

1. Brief, non-technical description of what the rule does.

The rule is being modified to comply with statutory changes that added supplies, lubricants and field drain tile as exempt pursuant to section 144.030.2(22), RSMo.

2. Impetus for rule (audit, suggestion from outside group, litigation, etc.).

Recent legislation.

3. List of organizations, industries, businesses likely to support and oppose rule.

Farm Bureau (support)

4. Summary of any input discussions with persons/entities outside the department regarding the rule.

A draft of the rule will be sent to the list serve.

5. Citation to all statutes that touch on the rule, not just the citation to authority required by Chapter 536.

Section 144.030, RSMo Supp. 2007

6. A statement of what negative consequences would result if a rule were not enacted.

There would be a lack of guidance to agricultural businesses.

7. A specific example of how the rule would work, if the rule itself does not include any examples.

The rule includes examples.